

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH H. BARTON and
FAITH B. PIERCE,

Plaintiffs,

Case No. 05-73415

v.

HONORABLE DENISE PAGE HOOD

OFFICER TERRY PRIEST, *et. al.*,

Defendants.

/

**ORDER STAYING AND ADMINISTRATIVELY
CLOSING CASE PENDING APPEAL**

Before the Court is Defendants' Unopposed Motion for Stay Of Proceedings Pending Appeal, filed on April 9, 2009. On February 10, 2009, this Court entered an Order granting in part and denying in part Plaintiff's Motion for Reconsideration. *See* Dkt. No. 62. This Court determined that, in addition to Plaintiff's Fourth Amendment claim relating to the reentry and search of Plaintiffs' basement, Plaintiff Faith Pierce's claims of false arrest/imprisonment and excessive force remain in the action, and Plaintiff Joseph Barton's excessive force claim, as it pertains to conduct occurring after he was subdued and handcuffed, also remains in the action. This Court also concluded that Defendants were not entitled to qualified immunity.

A district court's decision denying qualified immunity is immediately appealable notwithstanding the absence of a final judgment. *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985). On April 8, 2009, Defendants filed a Notice of Appeal. Accordingly, this Court finds that a stay of all proceedings pending Defendants' Appeal is appropriate as there are no circumstances which

warrant denying a stay in this matter.

IT IS ORDERED that this matter is STAYED and ADMINISTRATIVELY CLOSED.

IT IS FURTHER ORDERED that Defendants' Unopposed Motion for Stay Of Proceedings Pending Appeal [**Docket No. 76, filed on April 9, 2009**] is GRANTED.

IT IS FURTHER ORDERED that the motions *in limine* [**Docket Nos. 71 and 72, filed March 19, 2009**] are MOOT at this time. If necessary, these motions will be reopened when the mandate is issued.

IT IS FURTHER ORDERED that once a mandate has been issued, Defendant will so notify the court and the case will be reopened.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: April 17, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 17, 2009, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager